

AMENDED IN ASSEMBLY MAY 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1753

**Introduced by Committee on Governmental Organization
(Jerome Horton (Chair), Plescia (Vice Chair), Aghazarian,
Bermudez, Calderon, Chavez, Coto, Levine, Liu, Torrico, and
Yee)**

March 9, 2005

An act to amend ~~Sections 19854 and 19984~~ *Section 19854* of the Business and Professions Code, and to amend Sections 330.9, 332, 337a, 337d, 337j, and 337z of the Penal Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1753, as amended, Committee on Governmental Organization. Gambling.

(1) The Gambling Control Act regulates the business of gambling within California and specifically requires every key employee, as defined, to apply for and obtain a key employee license. Pursuant to that act, a person is prohibited from being issued a key employee license unless that person is a California resident.

This bill would delete that restriction on obtaining a license.

(2) ~~The Gambling Control Act provides for the licensure and regulation of proposition player services by the California Gambling Control Commission.~~

~~This bill would make minor revisions to provisions addressing the authority of a licensed gambling establishment to enter into contracts with 3rd parties for proposition player services.~~

(3) ~~Existing law defines and regulates gaming, and further prohibits the transport and possession of slot machines, unless for purposes of display at trade shows and if the machine is inoperable.~~

This bill would add use as a prop for movies or television as an exemption, permitting the transport and possession of slot machines, and would provide that the exemption applies if the machine is inoperable or is set on “demonstration” mode.

~~(4)–~~

(3) Existing law prohibits persons from engaging in specified unlawful gambling activities, including fraudulently obtaining money or property from another person by the game of 3 card monte or other games, pool selling or bookmaking, or attempting to influence the outcome of sporting events or contests, among other offenses. Existing law specifies the penalties for each of those offenses and makes them punishable by imprisonment or by fine, or both.

This bill would revise the penalties for each of those offenses, and would set maximum and minimum fine amounts for each violation. The bill would also make technical, nonsubstantive changes to those provisions.

By changing the penalties of various gambling crimes, ~~the~~ *this* bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19854 of the Business and Professions
- 2 Code is amended to read:
- 3 19854. (a) Every key employee shall apply for and obtain a
- 4 key employee license.
- 5 (b) Licenses issued to key employees shall be for specified
- 6 positions only, and those positions shall be enumerated in the
- 7 endorsement described in subdivision (b) of Section 19851.
- 8 (c) No person may be issued a key employee license unless the
- 9 person would qualify for a state gambling license.
- 10 ~~SEC. 2. Section 19984 of the Business and Professions Code~~
- 11 ~~is amended to read:~~

1 ~~19984. Notwithstanding any other provision of law, a~~
2 ~~licensed gambling establishment shall not allow a third party to~~
3 ~~provide proposition players in the gambling establishment~~
4 ~~without first entering into a contract as prescribed below:~~

5 ~~(a) Any agreement, contract, or arrangement between a~~
6 ~~gambling establishment and a third-party provider of proposition~~
7 ~~players shall be approved in advance by the division, and in no~~
8 ~~event shall a gambling establishment or the house have any~~
9 ~~interest, whether direct or indirect, in funds wagered, lost, or~~
10 ~~won.~~

11 ~~(b) The commission shall establish reasonable criteria for, and~~
12 ~~require the licensure and registration of, any person or entity that~~
13 ~~provides proposition players to gambling establishments pursuant~~
14 ~~to this section, including owners, supervisors, and players. Those~~
15 ~~employed by a third-party provider of proposition players,~~
16 ~~including owners, supervisors, observers, and players, shall wear~~
17 ~~a badge which clearly identifies them as proposition players~~
18 ~~whenever they are present within a gambling establishment. The~~
19 ~~commission may impose licensing requirements, disclosures,~~
20 ~~approvals, conditions, or limitations as it deems necessary to~~
21 ~~protect the integrity of controlled gambling in this state, and may~~
22 ~~assess and collect reasonable fees and deposits as necessary to~~
23 ~~defray the costs of providing this regulation and oversight.~~

24 ~~(c) The division, pursuant to regulations of the commission, is~~
25 ~~empowered to perform background checks, financial audits, and~~
26 ~~other investigatory services as needed to assist the commission in~~
27 ~~regulating third-party providers of proposition players, and may~~
28 ~~assess and collect reasonable fees and deposits as necessary to~~
29 ~~defray the costs of providing this regulation and oversight. The~~
30 ~~division may adopt emergency regulations in order to implement~~
31 ~~this subdivision.~~

32 ~~(d) No agreement or contract between a licensed gambling~~
33 ~~establishment and a third party concerning the provision of~~
34 ~~proposition players shall be invalidated or prohibited by the~~
35 ~~division pursuant to this section until the commission establishes~~
36 ~~criteria for, and makes determinations regarding the licensure or~~
37 ~~registration of, the provision of proposition players pursuant to~~
38 ~~subdivision (b).~~

39 ~~SEC. 3.~~

40 ~~SEC. 2.~~ Section 330.9 of the Penal Code is amended to read:

1 330.9. (a) Notwithstanding Sections 330a, 330b, 330.1 to
2 330.5, inclusive, or any other provision of law, it shall be lawful
3 for any person to transport and possess any slot machine or
4 device for display at a trade show, conference, or convention
5 being held within this state, or if used solely as a prop for a
6 motion picture, television, or video production.

7 (b) Subdivision (a) shall apply only if the slot machine or
8 device is adjusted to render the machine or device inoperable, or
9 if the slot machine or device is set on demonstration mode.

10 (c) This section is intended to constitute a state exemption as
11 provided in Section 1172 of Title 15 of the United States Code.

12 (d) For purposes of this section, “slot machine or device” has
13 the same meaning as “slot machine or device” as defined in
14 Section 330.1, or “gambling device” as defined in paragraph (1)
15 of subsection (a) of Section 1171 of Title 15 of the United States
16 Code.

17 ~~SEC. 4.~~

18 *SEC. 3.* Section 332 of the Penal Code is amended to read:

19 332. (a) Every person who by the game of “three card
20 monte,” so-called, or any other game, device, sleight of hand,
21 pretensions to fortune telling, trick, or other means whatever, by
22 use of cards or other implements or instruments, or while betting
23 on sides or hands of any play or game, fraudulently obtains from
24 another person money or property of any description, shall *be*
25 *punished as in the case of larceny of property of like value* for the
26 ~~first offense be punishable by imprisonment in a county jail for a~~
27 ~~period of not more than one year or in the state prison, and by a~~
28 ~~fine of not less than two thousand five hundred dollars (\$2,500)~~
29 ~~nor more than ten thousand dollars (\$10,000), except that the fine~~
30 ~~may not exceed more than five thousand dollars (\$5,000).~~ A
31 second offense of this section is punishable ~~by imprisonment in a~~
32 ~~county jail for a period of not more than one year or in the state~~
33 ~~prison, and by a fine of not less than five thousand dollars~~
34 ~~(\$5,000) nor more than ten thousand dollars (\$10,000)., as in the~~
35 ~~case of larceny, except that the fine shall not exceed ten thousand~~
36 ~~dollars (\$10,000), or both imprisonment and fine.~~

37 (b) For the purposes of this section, “fraudulently obtains”
38 includes, but is not limited to, cheating, including, for example,
39 gaining an unfair advantage for any player in any game through a
40 technique or device not sanctioned by the rules of the game.

1 (c) For the purposes of establishing the value of property
2 under this section, poker chips, tokens, or markers have the
3 monetary value assigned to them by the players in any game.

4 ~~SEC. 5.~~

5 *SEC. 4.* Section 337a of the Penal Code is amended to read:

6 337a. (a) Every person who engages in one of the following
7 offenses, shall be punished for a first offense by imprisonment in
8 a county jail for a period of not more than one year or in the state
9 prison, ~~and by a fine of not less than two thousand five hundred~~
10 ~~dollars (\$2,500) nor more than ten thousand dollars (\$10,000); or~~
11 *by a fine not to exceed five thousand dollars (\$5,000), or by both*
12 *imprisonment and fine:*

13 (1) Pool selling or bookmaking, with or without writing, at
14 any time or place.

15 (2) Whether for gain, hire, reward, or gratuitously, or
16 otherwise, keeps or occupies, for any period of time whatsoever,
17 any room, shed, tenement, tent, booth, building, float, vessel,
18 place, stand or enclosure, of any kind, or any part thereof, with a
19 book or books, paper or papers, apparatus, device or
20 paraphernalia, for the purpose of recording or registering any bet
21 or bets, any purported bet or bets, wager or wagers, any
22 purported wager or wagers, selling pools, or purported pools,
23 upon the result, or purported result, of any trial, purported trial,
24 contest, or purported contest, of skill, speed or power of
25 endurance of person or animal, or between persons, animals, or
26 mechanical apparatus, or upon the result, or purported result, of
27 any lot, chance, casualty, unknown or contingent event
28 whatsoever.

29 (3) Whether for gain, hire, reward, or gratuitously, or
30 otherwise, receives, holds, or forwards, or purports or pretends to
31 receive, hold, or forward, in any manner whatsoever, any money,
32 thing or consideration of value, or the equivalent or
33 memorandum thereof, staked, pledged, bet or wagered, or to be
34 staked, pledged, bet or wagered, or offered for the purpose of
35 being staked, pledged, bet or wagered, upon the result, or
36 purported result, of any trial, or purported trial, or contest, or
37 purported contest, of skill, speed or power of endurance of
38 person or animal, or between persons, animals, or mechanical
39 apparatus, or upon the result, or purported result, of any lot,
40 chance, casualty, unknown or contingent event whatsoever.

(4) Whether for gain, hire, reward, or gratuitously, or otherwise, at any time or place, records, or registers any bet or bets, wager or wagers, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of person or animal, or between persons, animals, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever.

(5) Being the owner, lessee or occupant of any room, shed, tenement, tent, booth, building, float, vessel, place, stand, enclosure or grounds, or any part thereof, whether for gain, hire, reward, or gratuitously, or otherwise, permits that space to be used or occupied for any purpose, or in any manner prohibited by paragraph (1), (2), (3), or (4).

(6) Lays, makes, offers or accepts any bet or bets, or wager or wagers, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of person or animal, or between persons, animals, or mechanical apparatus.

(b) In any accusatory pleading charging a violation of this section, if the defendant has been once previously convicted of a violation of any subdivision of this section, the previous conviction shall be charged in the accusatory pleading, and, if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall, if he or she is not imprisoned in the state prison, be imprisoned in the county jail for a period of not more than one year and pay a fine of not less than five thousand dollars (\$5,000) ~~nor more than~~ *hundred dollars (\$500) and not to exceed* ten thousand dollars (\$10,000). Nothing in this paragraph shall prohibit a court from placing a person subject to this subdivision on probation. However, that person shall be required to pay a fine of not less than ~~five thousand dollars (\$5,000)~~ *hundred dollars (\$500)* nor more than ten thousand dollars (\$10,000) ~~and or~~ be imprisoned in the county jail for a period of not more than one year, as a condition thereof. In no event does the court have the power to absolve a person convicted pursuant to this subdivision from *either* being imprisoned ~~and or~~ from paying a fine of not ~~less than five more than ten~~ thousand dollars ~~(\$5,000)~~ *(\$10,000)*.

(c) In any accusatory pleading charging a violation of this section, if the defendant has been previously convicted two or more times of a violation of any subdivision of this section, each previous conviction shall be charged in the accusatory pleadings. If two or more of the previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall, if he or she is not imprisoned in the state prison, be imprisoned in the county jail for a period of not more than one year ~~and or~~ pay a fine of not less than ~~seven thousand five hundred dollars (\$7,500) nor more one thousand dollars (\$1,000) nor more than fifteen thousand dollars (\$15,000)~~ , *or be punished by both imprisonment and fine*. Nothing in this paragraph shall prohibit a court from placing a person subject to this subdivision on probation. However, that person shall be required to pay a fine of not less than ~~seven one thousand dollars (\$7,000) (\$1,000)~~ nor more than fifteen thousand dollars (\$15,000) ~~and shall~~, *or be imprisoned in the county jail for a period of not more than one year as a condition thereof. In no event does the court have the power to absolve a person convicted and subject to this subdivision from either being imprisoned and or from paying a fine of not less than seven thousand five hundred dollars (\$7,500): a fine of not more than fifteen thousand dollars (\$15,000).*

(d) Except where the existence of a previous conviction of any subdivision of this section was not admitted or not found to be true pursuant to this section, or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

(e) This section applies not only to persons who commit any of the acts designated in paragraphs (1) to (6), inclusive, of subdivision (a), as a business or occupation, but also applies to every person who in a single instance engages in any one of the acts specified in paragraphs (1) to (6), inclusive, of subdivision (a).

~~SEC. 6.~~

SEC. 5. Section 337d of the Penal Code is amended to read:

337d. Any person who gives, offers to give, promises to give, or attempts to give, any money, bribe, or thing of value to any person who is umpiring, managing, directing, refereeing,

1 supervising, judging, presiding, or officiating at, or who is about
2 to umpire, manage, direct, referee, supervise, judge, preside, or
3 officiate at any sporting event, contest, or exhibition of any kind
4 whatsoever, including, but not limited to, sporting events,
5 contests, and exhibitions such as baseball, football, boxing, horse
6 racing, and wrestling matches, with the intention or agreement or
7 understanding that the person shall corruptly or dishonestly
8 umpire, manage, direct, referee, supervise, judge, preside, or
9 officiate at, any sporting event, contest, or exhibition, or the
10 players or participants thereof, with the intention or purpose that
11 the result of the sporting event, contest, or exhibition will be
12 affected or influenced thereby, is guilty of a felony and shall be
13 punished by imprisonment in the state prison ~~and or~~ by a fine of
14 ~~not less than five thousand dollars (\$5,000) nor more than ten~~
15 ~~thousand dollars (\$10,000), or by imprisonment and fine.~~ A
16 second offense of this section is a felony and shall be punished
17 by imprisonment in the state prison ~~and or~~ by a fine of not less
18 ~~than seven thousand five hundred dollars (\$7,500) nor more than~~
19 ~~fifteen thousand dollars (\$15,000), or by both imprisonment and~~
20 ~~fine.~~

21 ~~SEC. 7.~~

22 *SEC. 6.* Section 337j of the Penal Code is amended to read:

23 337j. (a) It is unlawful for any person, as owner, lessee, or
24 employee, whether for hire or not, either solely or in conjunction
25 with others, to do any of the following without having first
26 procured and thereafter maintained in effect all federal, state, and
27 local licenses required by law:

28 (1) To deal, operate, carry on, conduct, maintain, or expose for
29 play in this state any controlled game.

30 (2) To receive, directly or indirectly, any compensation or
31 reward or any percentage or share of the revenue, for keeping,
32 running, or carrying on any controlled game.

33 (3) To manufacture, distribute, or repair any gambling
34 equipment within the boundaries of this state, or to receive,
35 directly or indirectly, any compensation or reward for the
36 manufacture, distribution, or repair of any gambling equipment
37 within the boundaries of this state.

38 (b) It is unlawful for any person to knowingly permit any
39 controlled game to be conducted, operated, dealt, or carried on in
40 any house or building or other premises that he or she owns or

1 leases, in whole or in part, if that activity is undertaken by a
2 person who is not licensed as required by state law, or by an
3 employee of that person.

4 (c) It is unlawful for any person to knowingly permit any
5 gambling equipment to be manufactured, stored, or repaired in
6 any house or building or other premises that the person owns or
7 leases, in whole or in part, if that activity is undertaken by a
8 person who is not licensed as required by state law, or by an
9 employee of that person.

10 (d) Any person who violates, attempts to violate, or conspires
11 to violate this section shall be punished by imprisonment in a
12 county jail for not more than one year ~~and or~~ by a fine of not ~~less~~
13 ~~more than two thousand five hundred dollars (\$2,500) nor more~~
14 ~~than~~ ten thousand dollars (\$10,000), *or by both imprisonment and*
15 *fine*. A second offense of this section is punishable by
16 imprisonment in a county jail for a period of not more than one
17 year or in the state prison ~~and or~~ by a fine of not ~~less than five~~
18 ~~thousand dollars (\$5,000) nor~~ more than ten thousand dollars
19 (\$10,000), *or by both imprisonment and fine*.

20 (e) (1) As used in this section, “controlled game” means any
21 poker or Pai Gow game, and any other game played with cards or
22 tiles, or both, and approved by the Division of Gambling Control,
23 and any game of chance, including any gambling device, played
24 for currency, check, credit, or any other thing of value that is not
25 prohibited and made unlawful by statute or local ordinance.

26 (2) As used in this section, “controlled game” does not include
27 any of the following:

28 (A) The game of bingo conducted pursuant to Section 326.5.

29 (B) Parimutuel racing on horse races regulated by the
30 California Horse Racing Board.

31 (C) Any lottery game conducted by the California State
32 Lottery.

33 (D) Games played with cards in private homes or residences,
34 in which no person makes money for operating the game, except
35 as a player.

36 (f) This subdivision is intended to be dispositive of the law
37 relating to the collection of player fees in gambling
38 establishments. A fee may not be calculated as a fraction or
39 percentage of wagers made or winnings earned. The amount of
40 fees charged for all wagers shall be determined prior to the start

1 of play of any hand or round. However, the gambling
2 establishment may waive collection of the fee or portion of the
3 fee in any hand or round of play after the hand or round has
4 begun pursuant to the published rules of the game and the notice
5 provided to the public. The actual collection of the fee may occur
6 before or after the start of play. Ample notice shall be provided to
7 the patrons of gambling establishments relating to the assessment
8 of fees. Flat fees on each wager may be assessed at different
9 collection rates, but no more than three collection rates may be
10 established per table. However, if the gambling establishment
11 waives its collection fee, this fee does not constitute one of the
12 three collection rates.

13 ~~SEC. 8.~~

14 *SEC. 7.* Section 337z of the Penal Code is amended to read:

15 337z. (a) Any person who violates Section 337u, 337v,
16 337w, 337x, or 337y shall be punished as follows:

17 (1) For the first violation, by imprisonment in a county jail for
18 a term not to exceed one year ~~and, or by a fine of not less than~~
19 ~~five thousand dollars (\$5,000) nor more than ten thousand dollars~~
20 ~~(\$10,000), or by both imprisonment and fine.~~

21 (2) For a second or subsequent violation of any of those
22 sections, by imprisonment in a county jail for a term not to
23 exceed one year ~~and or by a fine of not less than seven thousand~~
24 ~~five hundred dollars (\$7,500) nor more than fifteen thousand~~
25 ~~dollars (\$15,000), or by both imprisonment and fine.~~

26 (b) A person who attempts to violate Section 337u, 337v,
27 337w, 337x, or 337y shall be punished in the same manner as the
28 underlying crime.

29 (c) This section does not preclude prosecution under Section
30 332 or any other provision of law.

31 ~~SEC. 9.~~

32 *SEC. 8.* No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the
37 penalty for a crime or infraction, within the meaning of Section
38 17556 of the Government Code, or changes the definition of a

- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

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